

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESAL PRICE LITIGATION

MDL No. 1456

Master File No. 01-12257-PBS

Judge Patti B. Saris

THIS DOCUMENT RELATES TO:

State of California, *ex rel.* Ven-A-Care v.

Abbott Laboratories, *et al.*

01-cv-12257-PBS and 03-cv-11226-PBS

DECLARATION OF JOHN P. FISHER IN SUPPORT OF EX PARTE
APPLICATION BY THE STATE OF CALIFORNIA FOR ENLARGEMENT OF TIME

I, John P. Fisher, hereby declare and state as follows:

1. I am a Deputy Attorney General for the State of California. I am admitted to practice *pro hac vice* in this judicial district for the purposes of this action.

2. I make this declaration in support of the State of California's Ex Parte Application
For Enlargement of Time To Effect Service.

3. Counsel for Sicor, Inc., Elizabeth Hack of Sonnenschein, Nash, et al. and the State of California have been in active, good faith negotiations for over a year and have agreed on a resolution of the allegations filed against Sicor, Inc. in the case known as *In re Pharmaceutical Industry Average Wholesale Price Litigation*, MDL 1456, Master File No.01-12257-PBS.

5. The parties are finalizing a settlement agreement. That agreement will now be sent out to the respective signatories for their review and signature. Included in those parties is attorneys and representatives of the California Department of Health Services [DHS]. I have been

informed by attorneys for DHS that their review/signature process will take approximately 30 days due to vacation schedules and the holiday season. As such, any finalization of the agreement will take place *after* the current 120 day deadline in which to serve all defendants, specifically December 23, 2005.

6. Plaintiff and Sicor, Inc. have discussed and agreed upon California's filing of the Ex Parte Application For Enlargement of Time. The parties have agreed that the time for the State to serve Sicor, Inc. should be enlarged sixty days or until February 21, 2006. Attorneys for Sicor, Inc. are in agreement and, as such, will not be filing any papers in opposition. Relators in this case, Ven-A-Care of the Florida Keys, also agree with this request for enlargement of time.

7. On December 16, 2005, I telephoned counsel for Sicor, Inc., Ms. Elizabeth Hack, and informed her of this Application and she again confirmed her client's acquiescence.

8. This Application is made in good faith based on the progress made by the parties towards a settlement and the fact that the parties are finalizing the last details before the agreement is signed. If the complaint was served on Sicor, Inc. within the original 120 days allowed for service, the negotiations would have ceased, and any progress towards a resolution would have been lost.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 19, 2005

By: _____



JOHN P. FISHER

Deputy Attorney General

CERTIFICATE OF SERVICE

I hereby certify that I, John P. Fisher, Deputy Attorney General, Bureau of Medi-Cal Fraud and Elder Abuse, for the State of California, caused a true and correct copy of the foregoing **Ex Parte Application By The State of California For Enlargement of Time to Effect Service; [Proposed] Order; Memorandum of Points and Authorities In Support of Ex Parte Application and Declaration of John P. Fisher** to be served electronically on counsel of record pursuant to Paragraph 11 of the Case Management Order No. 2, by sending a copy to LexisNexis File and Service for posting and notification to all parties.

Dated: December 19, 2005

A handwritten signature in black ink, appearing to read "John P. Fisher", is written over a horizontal line.

JOHN P. FISHER
Deputy Attorney General